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COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Seventeenth session

SUMMARY RECORD OF THE 48th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 2 December 1997, at 10 a.m.

Chairperson: Mr. GRISSA
(Vice-Chairperson)

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The meeting was called to order at 10.05 a.m.

CONSIDERATION OF REPORTS:

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (agenda item 6) (continued)

Second periodic report of Luxembourg (E/1990/6/Add.9, E/C.12/Q/LUX/1, E/C.12/A/LUX/1, HRI/CORE/1.Add.10)

1. At the invitation of the Chairperson, Mr. Zahlen, Mrs. Fisch, Mr. Kuentziger, Mr. Consbruck, Mrs. Kries, Mr. Wagner, Mr. Duhr and Mr. Weber (Luxembourg) took places at the Committee table.

2. Mr. DUHR (Luxembourg), introducing the second periodic report (E/1990/6/Add.9), said that, owing to pressure of time as a result of Luxembourg's duties under its current Presidency of the European Union, the written replies to the list of issues were at present available in French only. Luxembourg continued to be committed to strict application of all of the provisions of the Covenant and the Committee's comments in that regard would be welcome. A general review of current practice in the various spheres covered by the Covenant would be given by representatives of the ministries concerned.

3. Mr. ZAHLEN (Luxembourg) said that the Ministry of Labour and Employment was principally concerned with the implementation of articles 6, 7 and 8, and to some extent article 3, of the Covenant. A prominent feature of the labour market was the high proportion, some 30 per cent, in the workforce of cross-border employees who lived in neighbouring countries and crossed the frontier every day to work in Luxembourg. Some 52 per cent of the total workforce was made up of non-nationals. At present, unemployment was giving some cause for alarm as it was threatening to become a political problem. Although the current rate was no more than 3.7 per cent, it had doubled over the past five years, despite the creation of 60,000 new jobs. The cause was one of imbalance in supply and demand, training, lack of acceptance of job mobility, and shortcomings of the public job placement services. Efforts were being made to deal with the problem at government level and at tripartite consultation level.

4. Consultation at all levels among the social partners on a tripartite basis was a feature of life in Luxembourg and culminated in the Tripartite Coordination Committee. It was a practice that had ensured social peace and was based on the search for compromise.

5. The Ministry was also concerned with labour legislation, labour relations and working conditions. Labour law in Luxembourg was generally held to be very unyielding in such matters as dismissal, working hours or overtime. However, pressures for deregulation were building up throughout the country. Nevertheless, the Government was standing firm in its refusal to yield to undifferentiated deregulation of the right to work.

6. Mrs. KRIES (Luxembourg), referring to the work of the Ministry of Social Security, said that the social welfare system in Luxembourg was based on

social insurance paid for out of work-generated contributions, which then gave entitlement to benefit. As part of the fight against poverty launched in the 1980s, the system had been supplemented by social assistance underpinned by the concept of a minimum guaranteed income for all persons or households resident in Luxembourg. Social aid, a third strand of social welfare, which had been in existence since the end of the previous century, provided a safety net only.

7. Social insurance formed the core of social welfare and covered such standard risks as sickness, pregnancy, old age and occupational accidents and disease. Changes in social insurance had generally been introduced in terms of type of risk, and also in terms of social and occupational group, since the different social insurance Funds, although all run in the same way, were organized on the basis of such groups. All insurance schemes were funded by contributions, an equal share of which was paid by the insured person and the employer. However, funding of health insurance and pensions from the national budget had considerably increased in recent years.

8. As in the labour field, the tripartite approach was prevalent in social welfare. The social security institutions were administered by bodies on which employers, the insured and the State supervisory authorities were represented. Luxembourg was facing many of the same problems in the welfare field as other countries throughout the world. Spiralling health costs, which had led to reform of the health insurance system in 1992, and the impact of an ageing population on the pensions system were the principal concerns.

9. A major project now under way was the introduction of dependency insurance, funded by contributions from all insured persons and the State, to cover persons who were losing their ability to take care of themselves and had formerly been looked after under ordinary health insurance. The scheme included time-linked assessment of the needs of dependants entitled to benefits, benefit in kind such as provision of health care, and benefit in cash to permit the employment of someone to take care of the dependent person.

10. Another project in progress was a reform of the pensions system, which would henceforth consist of three strands. The first was the introduction of a legal framework to comply with a recent European Commission directive on the introduction of supplementary pension schemes as an addition to the regular pension system, which was the core of the whole system and formed the second strand. Amendments to that system were introduced from time to time when required. The third strand was represented by reform of the civil service pensions scheme.

11. Mr. WAGNER (Luxembourg), referring to the work of the Ministry of Education, said that education was particularly important in Luxembourg, since the only natural resource was the intellectual capacities of the people. Because of the country's location and its cultural background, education in Luxembourg was bilingual, and even trilingual. Although the population as a whole was ageing, the increasing internationalization of the country, with every other job held by a non-national, was leading to a rise in absolute numbers. The number of inhabitants was expected to rise to half a million by

the middle of the next century. The school population was thus also expected to increase - a 20 per cent rise in the post-primary school population was forecast for the coming five years.

12. The increase in the proportion of non-nationals in the school age population also posed a major challenge to the education system. Every effort had to be made to ensure that non-national children had the opportunity to enter the labour market with as good an education as possible. A further difficulty was that the labour market in Luxembourg required an increasingly highly qualified workforce, with the result that the demand for unskilled and low-skilled labour was disappearing.

13. The bilingual and trilingual nature of the education system caused problems in that some pupils had difficulty coping - falling behind and leaving school at a late age. Others, because of repeated failures, left school with their education incomplete. On the other hand, pupils who could cope had the inestimable advantage of a wide choice of opportunity for university studies, which could be pursued in Luxembourg or in a French-speaking, German-speaking or even English-speaking country. Considerable assistance was available to students to finance their studies. The country's standard of teaching was high. Considerable thought was currently being given to overcoming the adverse aspects of the present system and developing a comprehensive policy for education in the medium and the long term.

General framework within which the Covenant is implemented

Issues relating to the general provisions of the Covenant

Article 2. Non-discrimination and international cooperation

Article 3. Equal rights of men and women

14. Mr. RIEDEL, referring to paragraph 2 of the list of issues (E/C.12/Q/LUX/1), asked whether there was any recent case law in Luxembourg relevant to the rights recognized by the Covenant. There also appeared to have been a recent change in the court system in Luxembourg on which he would welcome an explanation.

15. Mr. ANTANOVICH, referring to paragraph 4 of the list of issues, asked whether Luxembourg was experiencing the same large influx of non-nationals as was currently affecting other European countries. What was the status of aliens in the legal, social and economic spheres? Were the legal measures concerning aliens on the same liberal scale as those recently adopted in France?

16. Mr. THAPALIA asked what measures were being taken to disseminate information on human rights, especially among vulnerable and disadvantaged groups, in view of the comments made by the Human Rights Committee in 1992.

17. Mr. SADI said the fact that non-nationals made up one third of the population of Luxembourg would appear to indicate that acquisition of

Luxembourg citizenship was not an easy process for resident aliens. He asked whether there were any particular obstacles to obtaining Luxembourg citizenship.

18. Mrs. JIMENEZ BUTRAGUEÑO asked whether any non-governmental organizations had collaborated in the preparation of the report. What relations did the Government have in general with NGOs?

19. Mr. WIMER asked what proportion of the foreign workers in Luxembourg were cross-border workers and what proportion were resident in the country.

20. Mr. PILLAY said that, like Mr. Riedel, he would be interested to know what case law there was in Luxembourg with regard to application of the rights recognized by the Covenant. Noting that the large number of non-nationals in the country appeared to be well assimilated, he asked what proportion of the 10 per cent of foreigners who were not citizens of the European Union came from outside Europe. Although the reply to paragraph 4 of the list of issues indicated that all foreigners regardless of their origin enjoyed the same rights under the Covenant, that did not appear to be compatible with the 10-year residence apparently required to qualify for the minimum wage.

21. Mr. DUHR (Luxembourg) said that the thinking behind the law on nationality was that, since Luxembourg was a country with a relatively small population, excessively broad access to Luxembourg nationality might dilute the national character too much. There was a need to be sure that individuals taking Luxembourg nationality were committed to becoming part of the country, to being assimilated into the population, and to remaining and working in Luxembourg. The law on nationality was similar to that in many other European countries.

22. The presence of a large number of foreigners in Luxembourg had not as yet caused any major problems and had not given rise to any extremist political movements. Foreigners were subject to no discriminatory measures. However, citizens of the European Union enjoyed some advantages that Luxembourg citizens also enjoyed on a reciprocal basis in other countries of the Union. The treatment afforded other nationals was in conformity with the provisions of United Nations instruments.

23. In the case of refugees, although Luxembourg had been slow to deal with the question in the 1960s and 1970s, it was now a party to the Convention and the Protocol relating to the Status of Refugees. A common European policy on refugees was being developed within the European Union. Some provisions had already been included in the Maastricht Treaty and others in the more recent Treaty of Amsterdam. Luxembourg's position could therefore be considered as being in conformity with United Nations provisions on refugees.

24. Mr. ZAHLEN (Luxembourg) said that, since 1985, children born in Luxembourg of foreign nationals had had the right to choose Luxembourg nationality. A work permit was required for persons who were not citizens of a member State of the European Union; in 1996, such persons had constituted only 3.2 per cent of the workforce. Work permits were granted with few

constraints. There were 70,000 cross-border workers, who accounted for 30 per cent of the active working population. In principle, all persons working in Luxembourg enjoyed the same economic, social and cultural rights.

25. Mr. Pillay's question was based on an error. The minimum wage carried no residency requirement. Only those who had resided for 10 years or longer in Luxembourg were eligible to benefit from the minimum guaranteed income, which involved social assistance. Although the NGOs and the unions had not participated in the drafting of the report, they were directly involved in developing the policies that were the subject of the report.

26. Mr. DUHR (Luxembourg) said that Luxembourg had traditionally had no constitutional court, on the grounds that the interpretation of law was the purview of the Chamber of Deputies, which depended on the sovereignty of the Luxembourg people. Problems had arisen with the interpretation of legislation and, after long debate, such a body had been established only that year. The first cases heard by the Court would certainly establish the scope and framework of its competence. By the time the next periodic report was submitted, Luxembourg would be able to describe relevant case law.

27. To his knowledge, the Covenant had not thus far been invoked before a Luxembourg court, which did not mean that none of its provisions had been violated. The Covenant had been published, as were all acts of law, in the Official Gazette. The question arose whether it fell to the Government to alert lawyers to the provisions of the Covenant and the answer in that case was in the negative.

28. Mr. ZAHLEN (Luxembourg) said that legislation had always been reviewed a priori by the Council of State; what had been lacking was an a posteriori legislative review. Following the example of other countries, Luxembourg had established a constitutional court, before which an individual could challenge the validity of legislation.

29. Mr. SADI said that, although Luxembourg had stated that the child of a Luxembourg mother became a citizen of that country, it was not clear whether the same was true for the child of a Luxembourg father. Secondly, the fact that the Covenant had not yet been invoked before a Luxembourg court bespoke a lack of prominence in that country. Clarifications would be useful.

30. Mr. RIEDEL asked whether there had been instances of ex ante controls and whether, in particular, draft legislation was assessed with reference to the international law obligations of the Covenant. In its reply to paragraph 2 of the list of issues, Luxembourg had stated that all rights recognized under the Covenant were guaranteed by the Constitution. Were all the rights established in articles 6 to 15 in fact specifically guaranteed?

31. Mr. WIMER asked what the legal status was of children born in Luxembourg to foreign parents.

32. Mr. THAPALIA asked whether people in Luxembourg practised de facto discrimination against foreign nationals or on the grounds of race, sex or

religion, and in particular whether members of the Luxembourg police discriminated against foreign nationals. If so, what measures had the Government envisaged to overcome that problem?

33. Mr. AHMED, congratulating Luxembourg on its achievement of peace, political stability, economic prosperity and respect for human rights, asked whether there were any psychological and spiritual problems as drug addiction and suicide. What was the suicide rate among young people?

34. Although Luxembourg had indicated that the Constitution guaranteed all the rights recognized by the Covenant, the core document (HRI/CORE/1/Add.10) stated that the Constitution guaranteed 15 rights. It then listed those rights, only two of which - the right to education and the right to employment and social security - referred to rights recognized under the Covenant. Consequently, the remaining rights must be established by other legislation. And yet, it was not clear to what degree the provisions of the Covenant had been incorporated in domestic legislation. Two questions came to mind. To what extent were the persons most likely to benefit from the terms of the Covenant made aware of its provisions? Was there any specific law guaranteeing protection of disabled persons?

35. Mr. DUHR (Luxembourg) said that Luxembourg nationality law was based on the principle of ius sanguinis. A child born of Luxembourg parents on foreign territory was automatically granted Luxembourg citizenship. Children of foreign parents born in Luxembourg were not.

36. Luxembourg had ratified a considerable number of international instruments and had published them in the Official Gazette. Could it be expected to give special publicity to all? Or must it decide, for example, that the International Covenant on Economic, Social and Cultural Rights was more important than the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment? With modern information channels such as the World Wide Web, the terms of those instruments were easily accessible. If the Committee deemed that the Covenant should merit special publicity, that could of course be arranged.

37. The Constitution did not specifically guarantee all of the rights set out in the Covenant. Nevertheless, having been ratified, promulgated, and published in the official bulletin, the terms of the Covenant were law. Some of the broader provisions stood to be incorporated in specific legislation and Luxembourg looked to guidance from the Committee in that regard. Admittedly, not all legislation enacted since the ratification of the Covenant precisely reflected the terms of that instrument. Luxembourg had, of course, adapted those provisions to reflect its national character.

38. Citizens of the European Union did benefit from some advantages over other foreign nationals. Luxembourg was, after all, engaged in the process of integrating its governmental structures with those of other member States of the Union and European citizenship was a long-term goal. No discrimination was practised against other foreign nationals in Luxembourg on the grounds of sex, race, religion, or ethnic heritage.

39. Mr. ZAHLEN (Luxembourg) said that no law as yet existed to guarantee equal treatment to disabled persons. The Ministry of Justice was nonetheless, in the process of developing legislation. Endorsing the remarks by Mr. Duhr, he said that there was no discrimination in Luxembourg. The legal distinctions drawn between nationals and non-nationals and between European nationals and those of countries that were not member States of the European Union could not be considered discriminatory.

40. The Council of State reviewed all legislation before it was adopted and was empowered to find a text illegal or unconstitutional. Although the Chamber of Deputies could override such a formal objection, such a step, considered politically and legally unwise, was rarely taken.

41. Mr. KOUZNETSOV said he was convinced that Luxembourg did not practise discrimination in the broad sense of the term. It had, however, omitted to ratify certain international instruments. He would like to know the reason for its failure to ratify ILO Convention No. 111, concerning Discrimination in Respect of Employment and Occupation.

42. Mr. ZAHLEN (Luxembourg) said that ILO Convention No. 111 had not yet been ratified because Luxembourg law was in conformity with its terms. It would, however, be ratified in the next few months.

Article 6. Right to work

Article 7. Right to just and favourable conditions of work

Article 8. Trade union rights

Article 9. Right to social security

43. Mr. ANTANOVICH said that Luxembourg was surely prosperous, but was it also happy? He commended the Government for the detailed analysis of the employment status of men and women contained in the written replies. It was, however, disturbing to find that women earned only 70 per cent of what men did. What was the unemployment trend over the past five years and how did it compare with that of other European countries?

44. Mr. SADI inquired what findings had emerged from the Employment Summit recently held in Luxembourg. In view of the high unemployment rate, why did the Luxembourg Government not take measures to curb the number of cross-border workers so as to protect the rights of its citizens and legal residents?

45. Mr. CEVILLE said that the trade union conciliation process described in paragraph 27 of the report was not clear. How was a strike called and who was empowered to call it?

46. Mr. THAPALIA asked whether technical training programmes were accessible to all, regardless of sex, race, religion or ethnic background.

47. Mr. WIMER said that a country that provided work to foreign nationals did not have a unemployment problem, but an administrative one. There was

clearly insufficient communication between Government agencies and those who were responsible for hiring. What mechanisms existed to coordinate the work of foreign nationals?

48. Mr. AHMED said that, according to the CIA World Fact Book 1995, the unemployment rate was only 2.4 per cent; according to Luxembourg's second periodic report (CEDAW/C/LUX/2), to the Committee on the Elimination of Discrimination against Women, the unemployment rate was 3.2 per cent for men, and 4 per cent for women. Luxembourg therefore had the lowest rate of unemployment in Europe. If there had been a high unemployment rate, foreign nationals would not be flooding into Luxembourg in search of work. What was the current unemployment rate for men and women? Clarifications would be welcome.

49. The CHAIRPERSON, speaking as a member of the Committee, said that a high unemployment rate and an influx of foreign workers were not necessarily incompatible, since employment also depended on areas of skill.

50. Mr. ZAHLEN (Luxembourg) said that women earned 70 per cent less than men because they tended to work in jobs that paid less, not because of wage inequities.

51. Under the laws of the European Union, all European nationals must be accorded the same treatment. That meant Europe's 18 million unemployed persons had the right to seek work in Luxembourg and hence there was no legal means whereby the Government could prevent them from so doing. In the vicinity of Luxembourg, there were 110,000 unemployed persons who were directly competing with Luxembourg nationals and legal residents for the available jobs. The notion of coordination was an interesting one, but the market alone would determine the results. Employers naturally took on workers with the highest qualifications and the lowest wage demands. The matter of happiness had a direct bearing on the discussion at hand. One of the disadvantages of prosperity was a high cost of living; the question was how the people of Luxembourg would fare in the competition with foreign workers.

52. As Mr. Wimer had rightly pointed out, Luxembourg had administrative problems with its job placement services. One major drawback of the system was that little was known about persons who had signed up for unemployment assistance. With the sharp increase in unemployment, the administration had been overtaken by the events. Luxembourg was also very much behind other European countries as far as job training was concerned. A bill had been finalized to give incentives to firms that offered in-service training. But the problem was complex.

53. As for the labour market, according to a government report setting out the situation over the past five years, employment had increased by 30,000 since 1991, whereas unemployment had doubled. One positive element, however, was that 62 per cent of the unemployed found another job within six months. That showed the labour market still absorbed the unemployed rather well. The percentage of long-term unemployed among all persons out of work amounted to 16 per cent. Needless to say, long-term unemployment was highest among those

with fewest skills. Some 60 per cent of the unemployed were unskilled or inadequately skilled. Moreover, many unskilled jobs had been relocated to other countries.

54. The recent Employment Summit of Heads of State and Government held in Luxembourg on 21 November had been an event of enormous importance, because, for the first time, unemployment had been treated as a European problem. The results had been quite tangible, the participants having agreed on a number of objectives. The member States had committed themselves to seeking new ways to give long-term unemployed persons a fresh start by offering consultation and training and by creating jobs. Another objective was to increase the percentage of unemployed persons receiving job training from the current European level of 10 per cent to 20 per cent. The administrative costs for small and medium-sized enterprises were to be eased, especially when unemployed persons were hired. Other measures concerned reductions of the value added tax for labour-intensive services. Gender equality and the employment of women were also to be promoted. The results were encouraging.

55. The CHAIRPERSON, speaking as a member of the Committee, asked whether Luxembourg citizens crossed the border daily to work in neighbouring countries. Also, what was the minimum working age in Luxembourg and the retirement age for men and women?

56. Mrs. BONOAN-DANDAN asked how many women, foreigners and cross-border workers were represented on the Tripartite Coordination Committee referred to in paragraph 7 of the second periodic report. What measures had been taken by that body to address growing unemployment? As to the relocation of unskilled jobs, what problems did that pose for workers and families, especially families headed by single women? Was there any retraining for such persons? Were persons who lost their jobs because they did not have adequate skills also entitled to unemployment allowances? How long were such allowances paid?

57. Mr. RATTRAY asked what impact the free movement of persons in the European Union had on driving down wages. How were basic needs taken into account when deciding on the minimum wage? Was the current level of the minimum wage considered adequate? Was it adjusted from time to time?

58. Mr. WIMER said that in 1995, the International Labour Organization had criticized Luxembourg's failure to comply with certain provisions of ILO Convention No. 78 on the employment of children in domestic service. He would like to know how matters had evolved since that date.

59. Mr. ZAHLEN (Luxembourg), replying first to the question by the Chairperson on Luxembourg citizens working in other countries, said that most of the movement was in the other direction: 70,000 persons crossed the border into Luxembourg every day to work, whereas only 600 Luxembourg nationals went in the other direction for that purpose.

60. The Tripartite Coordination Committee referred to by Mrs. Bonoan-Dandan was an important institution created to take action whenever the unemployment rate reached a certain level. It consisted of the Prime Minister, the Minister of Labour, the Minister of the Economy, the Minister of Education and a number of other Ministers, as well as representatives of labour and

management. There was no direct representation of cross-border workers, who were represented by the trade unions, or women, who were represented in another tripartite body. The most recent action taken by the Tripartite Coordination Committee had involved some 40 measures introduced when it had met in 1994 and 1995. It would be meeting again in February 1998 to prepare an action plan on employment based on the Employment Summit decisions and would finalize it in May 1998. An effort would be made to find viable compromises in connection with the length of the work-week and flexible working arrangements, issues on which there was considerable controversy between labour and management.

61. In the matter of unskilled labour and relocation, the moves concerned had not just been across the border, but much farther afield, and it therefore was out of the question for the workers to relocate too. Such persons were experiencing a real problem, because there was a growing shortage of work for unskilled labour. A number of pilot projects were being conducted in conjunction with firms to retrain such persons. The training was, however, targeted to a very specific kind of work and, if the persons concerned lost those jobs too, they were back where they started. More comprehensive training was needed. As to the question by Mrs. Bonoan-Dandan on unemployment allowances, all persons who had worked for six months for an employer in Luxembourg were entitled to unemployment allowances for 12 and, in most cases, 18 months; benefits were set at 80 per cent of the last wage, with a ceiling at 2.5 times the minimum social wage. Thereafter, such persons were eligible for the minimum guaranteed income entitlement.

62. With reference to Mr. Rattray's question, the pressure on wages was a major problem. Persons who came in from neighbouring countries with high unemployment were inclined to agree to wages that Luxembourg workers refused. Hence, there was competition from such persons, just as there was pressure from the employers' associations. For the moment, however, the Government and the trade unions had made no concessions on that issue. The minimum social wage was adjusted every two years. Luxembourg was one of the few countries which still indexed the minimum wage to the inflation rate. The question as to whether the minimum wage was sufficient was a subjective one. As far as he knew, it was the highest of the countries in the European Union, it allowed people to get by. Admittedly, in certain more expensive areas of the country, if one spouse earned the minimum wage, the other would probably need to work as well.

63. In Luxembourg, the minimum working age was 16 and retirement age was 65, although it was possible to take early retirement at the age of 60, and sometimes even at 57. As a result, only 38 per cent of Luxembourg men between 54 and 60 years of age actually worked, something that posed problems in the financing of social security. As to Mr. Wimer's question, children were prohibited from working under the age of 15. ILO maintained that there were certain gaps in the agricultural sector and his Government was working on a bill to close them. In practice, he did not think that it was a big problem.

64. Mrs. JIMENEZ BUTRAGUEÑO asked whether, in view of the ageing population, there was any intention of raising the retirement age so as to ease the burden on the social security system. Older people who were still able to work should be allowed to do so.

65. As to survivors' pensions, did widows and widowers always inherit the pension of their spouse or were there any restrictions on their income? Was the maximum pension referred to in Luxembourg's replies also applied to double pensions, for example a widow's pension and a retirement pension? Was there any ceiling when the two were combined?

66. Mr. ZAHLEN (Luxembourg) said that his Government would be pleased if it could just maintain the present retirement age; one trade union had been calling for the retirement age to be lowered to 55.

67. Mrs. KRIES (Luxembourg) said that it was possible to continue working to the age of 68, in which case the retirement pension was deferred. The pension was usually calculated at the age of 65, but for the three additional years, the coefficient for measuring the level of retirement benefits was increased. Persons could continue to work while drawing survivors' pensions, but there were certain restrictions on combining the two. A distinction was made between persons who received both a survivor's pension and a personal pension and those who received a survivor's pension and also earned an income from work. In the latter case, if the two sources exceeded a certain ceiling, the survivor's pension could be reduced or even eliminated if the income was very high. In the case of couples who were both in receipt of a pension, the maximum was not applied for both pensions. It was not possible for one person to draw two pensions or to continue receiving a disability pension once the old-age pension began. It was, however, possible to combine a disability pension with an accident pension, although once again, there were provisions governing concurrent benefits.

68. Mr. ANTANOVICH asked whether the Government was under a legal obligation to try to harness the energy and professional experience of persons who retired at the age of 60 or even 55.

69. Mr. ZAHLEN (Luxembourg), referring to the question by Mrs. Jimenez Butragueño, said that the Government's position was clear: as long as unemployment remained so high, lowering the age of retirement was out of the question. With reference to Mr. Antanovich's question, there was no such obligation to make use of the experience of retired persons.

Article 10. Protection of the family and of mothers and children

70. Mrs. JIMENEZ BUTRAGUEÑO asked why a distinction was made between children born out of wedlock and children born in wedlock. In connection with paragraph 72 of the second report, were children born of an incestuous relationship discriminated against? Assuming there was some form of unequal treatment, what was done to eliminate it?

71. Mr. RATTRAY said he was curious about the interpretation to be placed on the term "family lifestyle", used in paragraph 48 of the report. Did it go so far as to encompass the concept of marriage between persons of the same sex or the raising of children by homosexuals?

72. Mrs. BONOAN-DANDAN asked about the prevalence of child prostitution, the exploitation of children for the production of pornographic films and the general incidence of alcoholism and prostitution.

73. The CHAIRPERSON, speaking as a member of the Committee, asked whether the nationality law based on jus sanguinis allowed families to adopt children who did not have Luxembourg blood.

74. Mr. KUENTZIGER (Luxembourg), responding to the question about the affiliation of children born of incestuous relations, said that the law allowed affiliation to be established with only one of the parents. In the best interest of the child, there was a total prohibition on marriage between its parents. Children born within marriage were considered legitimate, whereas natural children were the issue of persons who were unmarried.

75. Luxembourg families could adopt children as long as they met the adoption requirements. Most children adopted in Luxembourg originated in foreign countries: in 1996, only four adopted children had been of Luxembourg parentage. Under full adoption, the child was completely and irrevocably assimilated, as a legitimate child, in the host family and all connections with his original family were broken. In simple adoption, the child was integrated into the host family without breaking links with his original family. Such revocable adoptions were rare.

76. Legal provisions relating to family policy were aimed at ensuring broader social justice based on national solidarity and the promotion of greater flexibility and harmony between family life and occupational life. Marriage between persons of the same sex and adoption by homosexual couples were not yet authorized in Luxembourg.

77. Violence and child pornography had been the subject of close study by the Ministry for the Family in the preparation of Luxembourg's report on the rights of children. A number of preventive measures had been enacted.

78. There were no detailed statistics available on alcoholism among minors as data collection in that area was problematic. However, it was not perceived as widespread. A survey of persons, averaging 17.6 years, had revealed varying levels of contact with drugs, ranging from cannabis to hard drugs. The rate of drug abuse increased with age, particularly among persons over 20 years of age.

79. Mr. CONSBRUCK (Luxembourg) said that the official statistics on alcohol sales might convey the impression that Luxembourg had the highest rate of alcohol consumption in the world. In fact, the statistics were distorted. Since alcohol was cheaper in Luxembourg than in neighbouring countries, transborder sales accounted for a large percentage of total sales of alcohol. It was difficult to assess the incidence of alcoholism because there were no statistics on morbidity in that respect. Similarly, the relationship between alcohol abuse and mortality was not fully known. Generally speaking, alcohol consumption was not out of control, nor was it a major challenge to public health. There were nevertheless clinics for the treatment of persons who were dependent on alcohol.

80. The CHAIRPERSON, speaking as a member of the Committee asked for details of divorce statistics.

81. Mrs. BONOAN-DANDAN said that her previous question had been aimed not so much at determining the level of protection of children against exposure to pornography as the prevalence of the use of children in making pornographic video and film recordings. Perhaps the delegation could confirm whether children in Luxembourg were being exploited in that way and, if so, what action the Government had taken to curb such activity.

82. With regard to health measures, how well did women understand the concept of reproductive health care?

83 Mrs. JIMENEZ BUTRAGUEÑO said she presumed that domestic violence existed in Luxembourg. She would like to know about its extent and the measures adopted to stop violence against women and children.

84. Mr. KUENTZIGER (Luxembourg) said the divorce rate had risen rapidly in the 1970s and 1980s, but had stabilized since 1989. According to 1996 statistics, 800 out of 2,500 marriages had ended in divorce. As of 27 July 1997, legislation to simplify the divorce process had been in force.

85. Pursuant to the Penal Code, a number of refuges had been provided for women and children who were victims of domestic violence.

86. Mr. CONSBRUCK (Luxembourg) said that recent legislative amendments strengthened job security for pregnant working women and provided systematic gynaecological monitoring throughout pregnancy. Other forms of social assistance, including mid-wifery services, were also available, and a working party made up of health professionals was preparing a prenatal care programme. Luxembourg ranked high in European and international standards of reproductive health care, with commendable indicators in terms of maternal and infant mortality.

87. Comprehensive family planning services throughout the country tailored their activities to the political and religious sensibilities of specific social groups. Abortions were freely available at hospitals and authorized centres. As an element of primary prevention, a well-integrated sex education programme was provided at various levels in the national education system.

88. Mr. KUENTZIGER (Luxembourg) said that, although prostitution was not prohibited, procuring was punishable by imprisonment. The use of children for pornographic purposes was not regulated by law. However, during discussions on children's rights in the Chamber of Deputies, a motion had been passed seeking the adoption of criminal penalties for the corruption of young persons. Luxembourg was working at the European level on a common approach to effectively fighting the sexual exploitation of young persons.

89. Publications involving minors, although not produced in Luxembourg, were readily available. The Government was aware that much investment would be required to regulate the flow of child pornography through computer and telephone networks.

Article 11. Right to an adequate standard of living

90. Mr. RIEDEL drew the delegation's attention to paragraph 30 of the list of issues and referred to paragraph 86 of the report, which spoke of ministerial support for associations managing shelters for the homeless. Did such support represent full or partial assistance or were the associations involved charitable organizations? As to the number of subsidized places mentioned in that paragraph, surely there were more than 190 people in need of housing.

91. It was curious that the social security system intervened to supplement the resources of low-income earners. He would like clarification of the last sentence of paragraph 79, in view of the fact that it was the individuals in need of assistance who usually approached the authorities.

92. Mr. PILLAY asked for details about the situation regarding the right to adequate housing. He would also like to know whether there was a homelessness problem and whether there were any forced evictions. Were statistics available on the number of evicted persons? The aim of the amendment to the Act of 14 February 1955 on housing leases was to provide general protection for tenants. Had it had the desired effect? Lastly, was the right to food a problematic issue in Luxembourg?

93. Mr. KUENTZIGER (Luxembourg) said that the Ministry for the Family partly subsidized the housing of homeless persons in special centres. In addition, the municipal authorities administered the supply of housing and associations were also subsidized by the Ministry, but no reliable statistics were available as there were enormous seasonal fluctuations in the number of persons housed in such centres. The number of homeless persons could be estimated at around 500. There were both municipal and private associations providing approximately 200 beds in the centres. In spite of legislation to protect the right to adequate housing, there were many people in Luxembourg at certain times of the year, some of whom did not want to ask for state housing assistance and preferred to go to the centres.

94. The Ministry of Housing and Town Planning had been created in 1989. Before that, social housing had fallen within the purview of the Ministry for the Family. The Ministry, in association with the municipal authorities, constructed homes for sale or rental and provided funding for low-income housing. Moreover, the selling price and the rental of State housing were adjusted to the financial situation of the family concerned, in accordance with income, size of family and other priority considerations. It was also possible for disadvantaged groups to receive assistance in searching for alternative housing. Forced evictions was very rare in Luxembourg. Legislation on rentals had been amended in 1992, inter alia, to safeguard the rights of tenants and their property it they were compelled to leave their present accommodation.

Article 12. Right to physical and mental health

95. Mrs. JIMENEZ BUTRAGUEÑO asked whether there had been any cuts in the resources for health care for the elderly. She was interested in the general

policy on preventive health care, rehabilitation plans and other geriatric facilities in Luxembourg. What types of activities and entertainment were available for retired persons?

96. Mr. PILLAY asked about the fees charged for the examination of young workers in connection with occupational medicine. Since 1961, the ILO Committee of Experts had drawn the attention of Luxembourg to the provisions of ILO Convention No. 77 but, to date, no action had been taken. Could the delegation explain why the Government had not yet complied with article 5 of the Convention?

97. Mr. AHMED referred to paragraph 91 of the report, which stated that "most of the population" were insured. He would like to know what sector of the population was uninsured, how many people were without insurance and the reasons why they had no such coverage.

98. Noting the high incidence of suicide in prosperous, northern European countries, he asked whether suicide had reached an alarming rate in Luxembourg. Perhaps the delegation would also comment on the effects on the population of Luxembourg of alcohol, drugs and the spread of HIV-AIDS.

The meeting rose at 1.00 p.m.